

1 HB149  
2 189493-1  
3 By Representative Davis  
4 RFD: Judiciary  
5 First Read: 09-JAN-18

SYNOPSIS: Existing law provides for the Mowa Band of Choctaw Indians to employ police officers and limits the exercise of their powers to the premises of the reservation except when in appropriate pursuit off the premises of the reservation of an offender who is charged with a crime while on the premises of the reservation, when making a lawful arrest for a felony committed, or probable cause to believe a felony has been committed, in the presence of the police officer, or within the boundaries of property owned or operated by the tribe.

This bill would give the Poarch Band of Creek Indians the same powers and authority to employ police officers for the protection of the reservation and the safety of the tribe.

A BILL  
TO BE ENTITLED  
AN ACT

1  
2 To amend Sections 36-21-120 to 36-21-124, inclusive,  
3 of the Code of Alabama 1975, relating to police officers of  
4 the Mowa Band of Choctaw Indians; to give the same powers and  
5 authority to the Poarch Band of Creek Indians.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Sections 36-21-120 to 36-21-124, Code of  
8 Alabama 1975, are amended to read as follows:

9 "§36-21-120.

10 ~~"The~~ For the purposes of the act adding this  
11 amendatory language, the following terms shall have the  
12 following meanings, respectively:

13 ~~"(2) (1) POLICE OFFICER. Any Peace Officers'~~  
14 ~~Standards and Training Commission certified police~~ A law  
15 enforcement officer appointed by the Mowa Band of Choctaw  
16 ~~Indians Tribal Council~~ a tribe pursuant to Section 36-21-122  
17 who meets all of the requirements of the Alabama Peace  
18 Officers' Standards and Training Commission for certified law  
19 enforcement officers.

20 ~~"(3) (2) RESERVATION. The Mowa Choctaw Indian~~  
21 Reservation or Poarch Creek Indian Reservation, including any  
22 and all tribal properties or property owned in trust for the  
23 tribe by the United States government.

24 ~~"(1) MOWA BAND OF CHOCTAW INDIANS. (3) TRIBE. The~~  
25 tribe of Indians known as the Mowa Band of Choctaw Indians  
26 organized as a nonprofit corporation and recognized as a  
27 tribal government and law enforcement agency by the State of

1     Alabama and the tribe of Indians recognized as the Poarch Band  
2     of Creek Indians by the federal government and by the State of  
3     Alabama as a tribal government and as a law enforcement  
4     agency.

5             "§36-21-121.

6             "It is the intent of the Legislature to provide for  
7     the employment of police officers by ~~the~~ a reservation in  
8     order to protect reservation boundaries from intruders and  
9     trespassers, to prevent damage to the properties and grounds  
10    of the reservation, and to provide for the safety of residents  
11    and employees of the reservation. The police officers shall be  
12    vested with powers similar to the powers vested in university  
13    police.

14            "§36-21-122.

15            ~~"The Mowa Band of Choctaw Indians Tribal Council~~  
16    tribal council of a tribe may appoint and employ one or more  
17    suitable persons to act as police officers to protect the  
18    reservation of the tribe from intruders and trespassers, to  
19    prevent damage to the properties and grounds of the  
20    reservation of the tribe, and to provide for the safety of  
21    residents and employees of the reservation of the tribe. No  
22    state or local funds allocated for law enforcement purposes  
23    shall be used to provide financial support for the law  
24    enforcement officers hired by ~~the Mowa Band of Choctaw Indians~~  
25    a tribe. The authority of any person appointed as a police  
26    officer shall immediately cease when the person ceases to be  
27    an agent, servant, or employee of ~~the~~ a reservation.

1               "§36-21-123.

2               "Any police officer appointed by a tribe pursuant to  
3 Section 36-21-122 shall be charged with all the powers of  
4 state ~~or municipal~~ police officers including, but not limited  
5 to, the right to bear firearms. The police officers of a tribe  
6 may do any of the following:

7               "(1) Eject trespassers from the buildings and  
8 grounds of the reservation.

9               "(2) Without a warrant, arrest a person who is  
10 engaging in disorderly conduct, trespassing upon the property  
11 of the reservation, or committing any public offense in the  
12 presence of the police officers on the reservation property,  
13 and carry the person before the proper court and, upon proper  
14 affidavit, charge the person with committing the offense and  
15 the person so arrested may be tried and convicted as in cases  
16 of persons brought before ~~the~~ a court on the warrant of the  
17 court.

18              "(3) Arrest any person pursuant to a warrant who is  
19 on the premises of the reservation and is charged with any  
20 public offense and take the person before the proper office.

21              "§36-21-124.

22              "The powers of police officers appointed by a tribe  
23 pursuant to this article may be exercised only upon the  
24 premises of the reservation of the tribe, and a police officer  
25 ~~shall~~ may not otherwise act as a police officer while off the  
26 premises of ~~the~~ his or her reservation, except under either of  
27 the following conditions:

1               "(1) When in appropriate pursuit off the reservation  
2 of any offender or suspected offender who is charged with the  
3 commission of a crime while on the premises of the  
4 reservation.

5               "(2) To make lawful arrests for a felony committed,  
6 or for which there is probable cause to believe has been  
7 committed, in the presence of the police officer or within the  
8 boundaries of the property owned or operated by the  
9 ~~reservation~~ tribe."

10              Section 2. This act shall become effective  
11 immediately following its passage and approval by the  
12 Governor, or its otherwise becoming law.